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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Gero G. McClellan
Moser, Patterson & Sheridan, L.L.P.
Suite 1500
3040 Post Oak Boulevard
Houston, TX 77056-6582

EXAMINER

NGUYEN, PHUNG

ART UNIT PAPER NUMBER

2632

DATE MAILED: 06/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/041,937

Applicant(s)

NEE, WRIGHT JACKEN

Examiner

Phung T Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-6, 8-14, 16-23, 25-27, and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Nappholz et al. (U.S. Pat. 5,720,770).

Regarding claim 1: Nappholz et al. disclose a cardiac stimulation system with enhanced communication and control capability comprising:

a. receiving a wireless signal from the implanted medical device (figure 1, col. 3, lines 61-67, and col. 4, lines 1-5);

b. transmitting the distress call to a remote location in response to receiving the wireless signal (col. 4, lines 6-16, col. 5, lines 15-18, and col. 10, lines 11-15).

Regarding claim 2: Nappholz et al. disclose the wireless signal is indicative of a medical emergency experienced by a human being wearing the implanted medical device (col. 10, lines 1-15).

Regarding claim 4: Nappholz et al. disclose the wireless signal is indicative of a medical emergency (col. 10, lines 11-15).

Regarding claim 5: Nappholz et al. disclose the distress call containing vital data pertaining to an organ being monitored by the implanted medical device (col. 10, lines 1-15).

Regarding claim 6: Nappholz et al. disclose the distress call containing location information (col. 10, lines 15-28).

Regarding claim 8: Nappholz et al. disclose the implanted medical device comprising one of a pacemaker, and implantable cardioverter defibrillator and a combination thereof (col. 4, lines 3-35).

Regarding claim 9: Nappholz et al. disclose the implanted medical device is configured to monitor a human organ (col. 2, lines 54-65).

Regarding claim 10: Nappholz et al. disclose the distress call is transmitted via wireless telephone network (col. 4, lines 6-16, and col. 7, lines 23-27).

Regarding claim 11: Nappholz et al. disclose the implanted medical device comprising a transmitter configured to transmit the wireless signal and a heart regulating device (col. 5, lines 8-18).

Regarding claim 12: Nappholz et al. disclose the heart regulating device comprising one of a pacemaker, and implantable cardioverter defibrillator and a combination thereof (col. 4, lines 3-35).

Regarding claim 13: Nappholz et al. disclose a wireless external receiver configured to receive a wireless signal from an implanted medical device; and an external communications device connected to the wireless external receiver and configured to transmit a distress call to a remote location (figure 1, col. 5, lines 19-67, and col. 6, lines 1-50).

Regarding claim 14: Nappholz et al. disclose the distress call containing location information indicating a location of the external communication device (col. 10, lines 20-25).

Regarding claim 16: Nappholz et al. disclose the distress call containing vital data pertaining to an organ being monitored by the implanted medical device (col. 10, lines 1-15).

Regarding claim 17: Nappholz et al. disclose the wireless signal is indicative of a medical emergency (col. 10, lines 11-15).

Regarding claim 18: Nappholz et al. disclose the implanted medical device comprising one of a pacemaker, and implantable cardioverter defibrillator and a combination thereof (col. 4, lines 3-35).

Regarding claim 19: Nappholz et al. disclose the implanted medical device is configured to monitor a human organ (col. 2, lines 54-65).

Regarding claim 20: Nappholz et al. disclose the distress call is transmitted via wireless telephone network (col. 4, lines 6-16, and col. 7, lines 23-27).

Regarding claim 21: Nappholz et al. disclose the implanted medical device comprising a transmitter configured to transmit the wireless signal and a heart regulating device (col. 5, lines 8-18).

Regarding claim 22: Nappholz et al. disclose the heart regulating device comprising one of a pacemaker, and implantable cardioverter defibrillator and a combination thereof (col. 4, lines 3-35).

Regarding claim 23: Nappholz et al. disclose the external communications device is configured to determine, prior to transmitting the distress call, that the wireless signal is indicative of a medical emergency being experienced by a human being wearing the implanted medical device (col. 10, lines 1-20).

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Regarding claim 25: Nappholz et al. disclose a monitor device and a wireless transmitter in communication with the monitoring device and configured to transmit a wireless distress signal in response to predetermined activity of the monitoring device (figure 1, col. 10, lines 1-16).

Regarding claim 26: Nappholz et al. disclose the wireless transmitter is configured to transmit the wireless distress signal to an external system configured to place a distress call to a remote location (col. 5, lines 15-18, and col. 10, lines 11-15).

Regarding claim 27: Nappholz et al. disclose the monitoring device comprising an organ monitoring device (col. 4, lines 30-52).

Regarding claim 29: Nappholz et al. disclose the monitoring device comprising one of a pacemaker, and implantable cardioverter defibrillator and a combination thereof (col. 4, lines 3-35).

Regarding claim 30: Nappholz et al. disclose the monitoring device comprising the wireless transmitter is activated by the monitoring device to transmit the wireless distress signal only when the defibrillator has been activated to stimulate an organ (col. 10, lines 5-15).

Regarding claim 31: Nappholz et al. disclose the wireless transmitter is configured to transmit the wireless distress signal to an external system, and wherein the external system is configured to place a distress call to a remote location (col. 4, lines 6-16).

Regarding claim 32: Nappholz et al. disclose the external system is a portable unit configured for communication with the wireless transmitter while in close proximity thereto (col. 7, lines 66-67, and col. 8, lines 1-2).

Regarding claim 33: Nappholz et al. disclose the external system comprising a locator device configured to determine a location of the external system (col. 10, lines 20-25).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 7, 15, 24, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nappholz et al. (U.S. Pat. 5,720,770) in view of Beetz et al. (U.S. Pat. 6,544,171).

Regarding claim 3: Nappholz et al. disclose monitoring the heart of the patient and to provide appropriate therapy to insure that the heart is beating and if these stimulations are unsuccessful, to defibrillating. The device 12 will send an emergency message to the external system 14 requesting help (col. 10, lines 1-28) instead of transmitting the distress call only when the implanted medical device determined that a person wearing the implanted medical device is experiencing an emergency condition as claimed. However, Beetz et al. disclose a system for patient monitoring comprising the rate threshold memory 208 (figures 1 and 2, col. 5, lines 4-13, and col. 6, lines 46-51) to determine that a person wearing the implanted medical device is experiencing an emergency condition. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Nappholz et al. and Beetz et al. because they both teach a patient monitoring system comprising the body sensor for detecting a physiological parameter and the wireless transmitter for transmitting the distress

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call to a central monitoring station. The teaching of Beetz et al. of transmitting the distress call only when the implanted medical device determined that a person wearing the implanted medical device is experiencing an emergency condition would enhance the system of Nappholz et al. by allowing the physician to take immediate emergency action rather than spending time to review the information before making a decision.

Regarding claim 7: Beetz et al. disclose the operational data for the implanted medical device (col. 4, lines 66-67, and col. 5, lines 1-13).

Regarding claim 15: Beetz et al. disclose the location information is included in the distress call (col. 7, lines 20-26).

Regarding claim 24: Refer to claim 3 above.

Regarding claim 28: Refer to claim 3 above.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Lang et al. [U.S. Pat. 6,553,262] disclose an arrangement for patient monitoring.
- b. Meadows et al. [U.S. Pat. 6,553,263] disclose an implantable pulse generators using rechargeable zero-volt technology lithium-ion batteries.
- c. Snell [U.S. Pat. 6,263,245] discloses a system and method for portable implantable device interrogation.
- d. Munshi et al. [U.S. Pat. 5,411,537] disclose a rechargeable biomedical battery powered devices with recharging and control system therefor.

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e. Duffin et al. [U.S. Pat. 6,292,698] disclose a world wide patient location and data telemetry system for implantable medical devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung T Nguyen whose telephone number is 703-308-6252. The examiner can normally be reached on 8:00am-5:30pm Mon thru. Friday, with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on 703-308-6730. The fax numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Examiner: Phung Nguyen


DANIEL J. WU
PRIMARY EXAMINER
6/02/03

Date: June 2, 2003